

**REQUEST FOR PROPOSAL
NOTICE TO AGENCIES
FASHION INSTITUTE OF TECHNOLOGY
COMMUTER BENEFITS PROGRAM ADMINISTRATOR
RFP#C1697**

The Fashion Institute of Technology (FIT) is ONLY accepting electronic RFPs.

Only those proposals emailed to purchasingbids@fitnyc.edu and received, on or before, 12:00 PM, August 18, 2025 will be considered.

FIT will not be responsible for improper delivery of proposals that do not comply with these instructions. Late proposals will not be considered nor returned.

SECTION ONE -- PROPOSAL TERMS AND CONDITIONS

I. SCHEDULE

RFP Release Date: July 9, 2025

Written questions may be submitted to Purchasing Office via email to:
Purchasingbids@fitnyc.edu. Answers will be provided to all agencies in a timely manner.

Last Day for Receipt of Written Questions July 21, 2025, 12:00 PM

Response to Questions Date: July 31, 2025

Proposal Due Date: On or before August 18, 2025, 12:00 PM

*Presentations/Interviews: Late September/Early October

Selection of Administrator: November 2025

Commencement of Work: January 2026

*The College reserves the option to select a vendor based on proposals. Presentations may, or may not, be scheduled.

II. INTRODUCTION

- A. Founded by a group of industry members to promote education for the fashion and apparel profession, the Fashion Institute of Technology (“FIT”) opened its doors to 100 students in New York City in 1944. Today FIT serves some 8,000 students annually, offering nearly 50 majors in a wide range of programs beyond fashion, including advertising, marketing communications, cosmetics and fragrance marketing, film and media, fine arts and illustration, interior design, and toy design leading to the AAS, BFA, BS, MA, MFA, and MPS degrees. It has expanded internationally with locations in Florence and Milan, Italy, and Songdo, South Korea, and four of our degree programs are offered entirely online. Through the Center for Continuing and Professional Studies (CCPS), the college offers an extensive array of courses and non-credit certificate programs, serving adult learners and high school students. Additionally, The Museum at FIT (MFIT), founded in 1969, attracts more than 100,000 visitors annually to the college’s Manhattan campus to view its world-renowned special exhibitions and displays of its extensive collections.
- B. FIT is soliciting proposals from qualified vendors to administer and manage a comprehensive, best-in-class Employee Commuter Benefits Program for its eligible employee population. The program should offer cost-effective, flexible, and

sustainable transportation options that promote the use of public transit, ridesharing, and other commuting alternatives, all in compliance with applicable federal, state, and local regulations.

The selected vendor will partner with FIT to enhance employee accessibility, reduce transportation costs, and elevate the employer and participant experience through exemplary customer support and client and participant-friendly services, technology, and options.

If selected, the implementation would be anticipated to occur in the 1st quarter of 2026.

III. SCOPE OF SERVICES

The selected administrator shall provide a full-service commuter benefits program that includes, but is not limited to:

A. Mass Transit and Parking Benefits

- i. Administration of pre-tax payroll deductions for transit and parking benefits in compliance with IRS Section 132(f).
- ii. Ability to accommodate post-tax benefit elections to accommodate needs beyond allowable pre-tax contribution limits.
- iii. Coordination with local and regional transit/parking providers; the employee population mainly uses local transit providers, with some requiring related parking options.

B. Rideshare & Carpooling Programs

- i. Platform or service to facilitate carpool and vanpool utilization in compliance with federal/state/local vanpooling regulations.

C. Bicycle & Micromobility Benefits (as available)

- i. Bicycle commuting reimbursement options in compliance with applicable tax laws.
- ii. Integration with local bike-share programs.

D. Technology & Administration

- i. Commitment to the adoption of cutting-edge technologies to offer best-in-class services to participants and for plan administration purposes.
- ii. User-friendly digital platform and mobile app for employee enrollment, program management, and use of provided services.
- iii. Secure and automated processing of commuter benefits.

- iv. Real-time reporting and analytics for employer compliance and program monitoring.
- v. Multiple participant account funding options (pre-funding, per-paycheck funding, etc.)

E. Compliance & Customer Support

- i. Compliance with IRS regulations, state commuter mandates, and collective bargaining agreements (as applicable).
- ii. Dedicated customer support team for employee and employer inquiries, which includes performance guarantees to ensure the highest levels of service for both.
- iii. Willingness to partner and achieve success with consideration to client-specific needs.

Migration From Existing Vendor (if applicable)

- i. Successfully and securely migrate during implementation all existing participant commuter accounts and funds from the previous commuter program vendor and seamlessly integrate accounts into the new vendor's system.

IV. VENDOR QUALIFICATIONS/PROPOSAL REQUIREMENTS

All Proposers shall meet the following requirements and furnish all necessary information with the Proposal. Failure to comply with these requirements shall be grounds for rejection of your Proposal. FIT reserves the right to determine that a Proposer has substantially met all the requirements of the RFP and/or to ask for additional information. Those items for which Proposers have or assert proprietary rights, or which must, under prior contract, remain confidential, shall be clearly indicated. Submission of Proposal shall be deemed to grant FIT the right to utilize submissions in any way, with or without prior notice. Absent affirmative assertion, FIT reserves such right to use.

Each proposal must be sent electronically in PDF format to purchasingbids@fitnyc.edu and include all required information as outlined below.

- A. At no time shall the Proposer, its agents, representatives or contracted personnel contact or otherwise communicate with FIT personnel without prior arrangement with the FIT Purchasing Office, for the purposes of negotiating, modifying, changing, or interpreting the Proposal or specifications.
- B. *Questions* shall be submitted in writing to the attention of the FIT Purchasing Office via e-mail to purchasingbids@fitnyc.edu by **July 31, 2025, no later than 12:00 PM**. Answers will be provided in a timely manner.

- C. If it becomes necessary to revise any part of this RFP, addenda will be supplied to all Proposers receiving this RFP.
- D. All Proposals submitted in response to this RFP will become the property of FIT and a matter of public record. The Proposer must identify, in writing, all copyrighted materials, trade secrets, or other proprietary information that it claims is exempt from disclosure. Any Proposer claiming such an exemption must also state in its Proposal that the Proposer agrees to hold harmless, indemnify and defend FIT and its agents, officials and employees in any action or claim brought against FIT for its refusal to disclose such materials, trade secrets or other proprietary information to any party making a request thereof. Any Proposer failing to include such a statement shall be deemed to have waived its right to exemption from disclosure.
- E. Proposer shall have been in business providing IRS Section 132(f) commuter benefit programs for no less than 10 years.
- F. Proposer shall have current administration of commuter benefits for public sector employers or higher education organizations.
- G. Proposer shall have established partnerships with local/regional transit agencies, vanpool providers, and transportation networks.
- H. Proposer shall have compliance expertise with IRS Section 132(f), state/local commuter laws, and tax regulations.
- I. Proposer shall have state-of-the-art and continuously evolving technology solutions for seamless benefits administration and customer satisfaction.
- J. Proposer shall have established methods aimed at increasing participation and reducing employer involvement in participant inquiries and issues.
- K. Proposer shall have a dedicated ongoing training, coaching, and development program for customer service representatives to ensure continuous quality of support.
- L. Proposer shall have previous experience with transitioning an existing employer commuter program to a new vendor's system.
- M. Proposer shall include, with the Proposal, detailed information regarding Proposer's qualifications providing the services outlined in the scope of work section to which they are responding. This information shall include:

i. Cover Letter/Organizational Information

- Company name, including parent company name if any, address, and contact information.
- Names of senior staff, including titles, qualifications/experience, and brief biographies.
- Names of potential implementation and employer servicing account manager(s), including current titles, qualifications/experience, and years of service with your organization.
- Brief statement of interest and basic vendor information.
- Names of relevant current clients.
- Documents evidencing financial viability, including income and expenditure statements and balance sheets for the past two (2) fiscal years. Audited financial statements for the past two (2) fiscal years are preferred. If audited statements are not available, provide copies of Proposer's two most recent tax returns or financial statements prepared by an independent certified public accountant.
- List of any recognized industry awards received by the vendor in the past five (5) years.
- Additional related or relevant information (if any) that would be helpful in FIT's assessment of your organization.

ii. Technical Proposal

- Overview of services and how they meet the requested scope of services, items, and other RFP requirements.
- Detailed information on program administration processes, including but not limited to:
 - Participant enrollment methods
 - Participant experience information (website, mobile app, commuter payment methods, etc.)
 - Commitment to participant data privacy and security measures
 - Names of third parties which will be utilized to service the FIT account and what services they provide on your behalf
 - Methods and timing of participant and employer-related communications information
 - Employer responsibilities from implementation through full administration
 - Invoicing and payment processing information/schedules
 - Samples of the types of on-demand employer reporting available from your system
- Technology platform capabilities, including security and integration features, the ability to customize language within participant online accounts, or any participant messaging based on program-specific information.
- Implementation timeline and onboarding process, including details on how the transition from a prior carrier will be handled.

- iii. Fee Proposal and Related (Exhibit B in RFP)
 - Itemized pricing structure which includes administrative services fees, per-employee fees, onsite attendance fees (e.g., onsite benefits fairs), out-of-scope or otherwise ad hoc/ à la carte fees.
 - Cost-saving recommendations for the employer.
 - iv. References, Past Performance & Communications
 - At least three (3) references from current public sector or higher education, or similar types of clients. Names of past public sector or higher education clients.
 - Case studies or examples of demonstrated successful program implementation, which include migration from an employer's previous commuter vendor.
 - Samples of previously distributed communications to clients and participants concerning program/regulation changes or other relevant communications.
 - v. Compliance & Legal Disclosures
 - Documentation of IRS compliance and relevant regulatory certifications.
 - Your organization's data security and privacy policies and any related policies.
- N. FIT is exempt from payment of any federal, state, and local sales and use taxes. Do not include these taxes when proposing prices for goods or Services (as defined below).
- O. Proposals must be signed. Proposals must be completed in Proposer's legal name, and must be signed by a personal authorized to do so.
- P. Proposals shall offer best and final terms. All prices shall be firm and not subject to increase during the period of the contract.
- Q. FIT reserves the right to award a contract on the basis of Proposer's submitted proposal without further discussion. Proposer's ideas or concepts included in the Proposal are solely intended for implementation into a contract.
- R. By signing and submitting your Proposal, Proposer affirms that it has read this RFP, accepts its terms, and is able and willing to sign the contract if Proposer's proposal is accepted, subject only to any changes negotiated and agreed upon by both parties. The issuance of a letter of intent to award or similar document does not require or commit FIT to enter into a contract until all terms and conditions are negotiated and acceptable to FIT. In the event of any inconsistencies between the Proposal and the RFP, the language of the RFP will prevail unless there is a written agreement to accept the Proposal's terms.

S. Bid Security, Performance, and Payment Bonds are NOT required for this Contract.

V. FEE PROPOSAL

Proposers shall provide a fee proposal in accordance with the attached Proposal Analysis Sheet (“Exhibit B”).

VI. EVALUATION CRITERIA

A duly selected committee will use the following criteria to evaluate those proposals that meet the requirements of these specifications:

- (1) Overall cost-effectiveness & pricing based on offerings noted: 30%
- (2) Perceived value, quality, & scope of services offered to participants: 20%
- (3) Technology offerings: 20%
- (4) Perceived value and quality of plan administration support: 15%
- (5) Vendor administrator experience & references: 10%
- (6) Presentations/Interviews (If Needed): 5%

FIT reserves the right to select finalists based on the highest total scores from criteria one (1) through four (5). If an interview/presentation is required for finalists, FIT will then award the Contract to the Proposer(s) with the highest total scores from criteria one (1) through five (6).

VII. TERM

- A. The term of the contract shall be for a one three (3) year period commencing with the effective date as specified in the letter of intent. Proposer is required to offer three (3) successive one (1) year renewal options. FIT will exercise each option in its sole discretion. FIT will send written notice of such intention to renew to Proposer forty-five (45) days prior to the stated conclusion of the term of contract. Failure to notify Proposer by this date shall not constitute a waiver of the college’s option to renew.
- B. In addition to any other termination or cancellation rights reserved by FIT elsewhere in this RFP, FIT shall have the right to suspend, abandon, or terminate contract for any reason, and such action shall in no event be deemed a breach of contract.
- D. Consultants who were awarded prior contract and are currently working on project(s) must oversee those project(s) through their completion or until a date agreed upon by both parties.

SECTION TWO -- RFP GENERAL TERMS AND CONDITIONS

A. **Proposal Requirements:**

1. Proposals must be received before the time stated on the cover page of the RFP and must include the entire proposal document (consisting of Section One - Proposal Terms and Conditions and this Section Two - RFP General Terms and Conditions), the Contract Terms and Conditions, and the Proposal Analysis Sheet, as issued by FIT, including required signatures and attachments. Proposers are not permitted to change or modify Proposal Terms and Conditions, Contract Terms and Conditions and/ or Proposal Analysis Sheet. All Proposers propose on the same terms and conditions.
2. Each proposal must be sent **in PDF format to purchasingbids@fitnyc.edu** and identified on the email subject, the name of the project.
3. Proposers are responsible to make certain that proposals are emailed to purchasingbids@fitnyc.edu before the time of the proposal due date. FIT will not be responsible for improper delivery of proposals that do not comply with these instructions.
4. Proposals received after the time of the proposal due date will be remain unopened.

B. **No Oral Statements:**

1. FIT will not be bound by any oral statement or representation in connection with the RFP or resulting Contract(s).
2. Any changes to the proposal document required by FIT shall be in writing and shall be issued by the FIT Purchasing Department to every entity that requested a copy of the RFP.

C. **Proposer Affirmation:**

By signing the proposal, Proposer certifies that:

1. No public officer or employee whose salary is payable in whole or in part by FIT, the City or the State is directly or indirectly interested in the proposal, or in the goods, services, supplies, equipment or labor which may be related to the proposal; and
2. Proposer is not in arrears to FIT, the City or the State upon a debt, contract or taxes, and is not in default as surety or otherwise upon any obligation to any of them.

D. **Non-Collusive Proposal Certification:**

1. By submission of its proposal, Proposer, and each person signing on behalf of Proposer certifies, and in the case of a joint proposal each party thereto certifies, as to

its own organization, under penalty of perjury, that to the best of its knowledge and belief:

- a. The prices in the proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
 - b. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by Proposer and will not knowingly be disclosed by Proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and
 - c. No attempt has been made or will be made by Proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.
2. A proposal shall not be considered for award nor shall any award be made where (1)(a), (b) and (c) above have not been complied with; provided, however, that if in any case Proposer cannot make the foregoing certification, Proposer shall so state and shall furnish with the proposal a signed statement which sets forth in detail the reasons therefore.

E. Confidentiality:

1. If Proposer believes that any information in its proposal or proposal constitutes a trade secret or should otherwise be treated as confidential and wishes such information not to be disclosed if requested pursuant to the New York State Freedom of Information Law (Article 6 of the Public Officers Law), Proposer shall submit with its proposal or proposal a separate letter specifically identifying page number(s), line(s) or other appropriate designation(s) containing such information; explain in detail why such information is a trade secret; and formally request that such information be kept confidential. Such information must be easily separable from the rest of the proposal or proposal. A request that an entire proposal or proposal be kept confidential will not be considered. Failure by Proposer to submit such a letter with its proposal or proposal identifying trade secrets shall constitute a waiver by Proposer of any rights it may have under FOIL.
2. In some instances, FIT may, in its sole discretion, share certain confidential, sensitive, and/or proprietary information with Proposers in connection with the RFP (particularly in connection with preparation for any presentation(s)). All such information, whether printed, written or oral, which is requested from or voluntarily furnished by FIT shall be held by Proposer in strictest confidence and used only for the purpose of the RFP.

F. Prices:

Proposal prices shall be held firm for one hundred and twenty (120) days from the proposal due date.

G. No Sales Tax:

FIT is exempt from the payment of State and City sales tax; therefore, all prices quoted shall not include such tax. Sales tax exemption forms may be obtained from the FIT Purchasing Department.

H. Proposal Withdrawal:

1. Proposers may withdraw proposals at any time before the proposal opening.
2. After the proposal opening, Proposers may withdraw proposals only after the expiration of ninety (90) days and before any actual award.
3. Proposal withdrawals must be in writing.
4. In the event of a proposal mistake, a Proposer may withdraw its proposal before the award of the Contract or within three (3) days after the opening of the proposal, whichever period is shorter. Proposer shall furnish credible evidence that its proposal mistake was a clerical error as opposed to a judgment error. FIT will determine, upon objective evidence and pursuant to law, whether Proposer shall be permitted to withdraw its proposal.

I. Tie Proposals:

Tie proposals will be awarded in FIT's absolute discretion based on its determination of FIT's best interest.

J. Proposer's Responsibility:

In determining whether a Proposer is responsible, FIT may consider experience, business references, integrity of the organization and its management, past performance, business, and/or financial capabilities and/or capacity and technical skills.

K. Proposal Rejection:

1. FIT may reject a proposal if:
 - a. The proposal is not responsive to the requirements of the Request for Proposals;
 - b. Proposer does not provide information or documents required;
 - c. Proposer does not submit the proposal security as required (if applicable);
 - d. Proposer misstates or conceals any material fact in the proposal;
 - e. The proposal is conditional;
 - f. The proposal contains prices that are unbalanced; and/or
 - g. FIT determines that Proposer is not responsible in accordance with law and FIT regulations.
2. FIT reserves the right to reject any or all proposals if it is in the best interest of FIT to do so.

L. Award of Contract:

1. Subject to the provisions Paragraph K immediately above, the Award shall be made to the highest score of Evaluation Criteria Proposer pursuant to law and FIT regulations.
2. FIT reserves the right to waive technicalities in a proposal if it is in the best interest of FIT to do so.
3. By submission of its Proposal, Proposer represents that it is willing and able to enter into an agreement with FIT (the "Contract") upon the terms and conditions substantially in conformance with those contained in the agreement attached to this RFP ("Exhibit C").
4. The Contract shall be signed by the successful Proposer after the award is made. The successful Proposer shall execute the Contract within ten (10) business days of the award.
5. All contracts awarded by FIT shall be executory only to the extent of funds available.

M. Governing Law:

1. This RFP shall be construed in accordance with the laws of the State of New York without regard to conflict of law provisions.
2. Any action arising from this RFP shall be brought in the federal or state courts located in the State of New York and in the County of New York.
3. Proposer consents to the exercise by the courts of the State of New York of personal jurisdiction over it concerning any matter arising out of or in connection with this RFP.

“Exhibit B”
PROPOSAL ANALYSIS SHEET
COMMUTER BENEFITS PROGRAM ADMINISTRATOR
RFP#C1697

IMPLEMENTATION FEES \$ _____

(Please provide details below on what items this fee covers)

MONTHLY FEES

Administrative fee per participant \$ _____

Other (Please list separately below and provide details)

\$ _____

\$ _____

AD HOC/A LA CARTE FEES

Participant benefits cards/ticket replacement fees \$ _____

Onsite visits (benefits fairs, etc.) \$ _____

Other (Please list separately below and provide details)

\$ _____

\$ _____

Proposer: _____
(Print or Type Company/Partnership/Individual Name)

By: _____
(Signature of Authorized Representative)

Name: _____
(Print or Type Name of Representative)

Title: _____
(Print or Type Title of Representative)

Address: _____

Telephone: _____

Federal ID#: _____

E-mail: _____

Date: _____

IMPORTANT: This proposal analysis sheet is the only pricing format acceptable. Agency must submit pricing using this form. FIT will not accept proposal responses on any other form.

“Exhibit C” CONTRACT

THIS CONTRACT (the “Agreement”) is made and entered into as of the ____ day of _____ by _____ and between the Fashion Institute of Technology (hereinafter “FIT”) and (hereinafter “Commuter Benefits Program Administrator”).

WHEREAS, it is the desire of FIT to retain the services of a Commuter Benefits Program Administrator to provide associated benefits that meet the needs of the college and plan participants.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto, FIT hereby retains the Commuter Benefits Program Administrator upon the terms and conditions contained herein, and the Commuter Benefits Program Administrator hereby accepts said retention.

1. **Term:** The effective date of this Agreement shall be **TBD**. The term of the contract shall be for a one three (3) year period with three (3) successive one (1) year renewal options. The Agreement may, however, be terminated at any time by either party giving thirty (30) days' notice in writing to the other party.
2. **Services by the Commuter Benefits Program Administrator:** Specifically, the assignment includes six components below (“Services”) for the Proposer(s) to provide:

FIT awards the RFP (“Commuter Benefits Program Administrator”). Proposers must provide all Services but may do so either with fully in-house capabilities or they may work in collaboration with other companies and/or sub-contractors in order to address all areas of the scope. The Commuter Benefits Program Administrator shall disclose the name of all outside partners and/or sub-contractors that it collaborates with for Services. FIT shall retain all ownership and possession of any reports or similar materials created by the Commuter Benefits Program Administrator, its partners, and/or its sub-contractors used in fulfilling its Services to FIT.

The selected administrator shall provide a full-service commuter benefits program that includes, but is not limited to the following Services:

- a. **Mass Transit and Parking Benefits**
 - o Administration of pre-tax payroll deductions for transit and parking benefits in compliance with IRS Section 132(f).
 - o Ability to accommodate post-tax benefit elections to accommodate needs beyond allowable pre-tax contribution limits.

- Coordination with local and regional transit/parking providers; the employee population mainly uses local transit providers, with some requiring related parking options.
- b. Rideshare & Carpooling Programs**
- Platform or service to facilitate carpool and vanpool utilization in compliance with federal/state/local vanpooling regulations.
- c. Bicycle & Micromobility Benefits (as available)**
- Bicycle commuting reimbursement options in compliance with applicable tax laws.
 - Integration with local bike-share programs.
- d. Technology & Administration**
- Commitment to the adoption of cutting-edge technologies to offer best-in-class services to participants and for plan administration purposes.
 - User-friendly digital platform and mobile app for employee enrollment, program management, and use of provided services.
 - Secure and automated processing of commuter benefits.
 - Real-time reporting and analytics for employer compliance and program monitoring.
 - Multiple participant account funding options (pre-funding, per-paycheck funding, etc.)
- e. Compliance & Customer Support**
- Compliance with IRS regulations, state commuter mandates, and collective bargaining agreements (as applicable).
 - Dedicated customer support team for employee and employer inquiries, which includes performance guarantees to ensure the highest levels of service for both.
 - Willingness to partner and achieve success with consideration to client-specific needs.
- f. Migration From Existing Vendor (if applicable)**
- Successfully and securely migrate during implementation all existing participant commuter accounts and funds from the previous commuter program vendor and seamlessly integrate accounts into the new vendor's system.

Fee:

IMPLEMENTATION FEES

\$ _____

(Please provide details below on what items this fee covers)

MONTHLY FEES

Administrative fee per participant

\$ _____

Other (Please list separately below and provide details)

\$ _____

\$ _____

AD HOC/A LA CARTE FEES

Participant benefits cards/ticket replacement fees

\$ _____

Onsite visits (benefits fairs, etc.)

\$ _____

Other (Please list separately below and provide details)

\$ _____

\$ _____

- A. **Indemnification:** The Commuter Benefits Program Administrator shall indemnify FIT and its respective affiliates, officers, governing board members and employees, and hold them harmless against any and all liability, loss, damages, costs or expenses, including reasonable attorney's fees, which they may incur, suffer or be required to pay in connection with the defense and/or settlement of any action, suit or proceeding based upon general liability or any other claims brought by any person, entity or organization arising out of any negligent or other wrongful act or omission by the Commuter Benefits Program Administrator.
- B. **Confidentiality:** All information, whether printed, written or oral, which is requested from or voluntarily furnished by FIT shall be held in strictest confidence and used only for the purpose of this Agreement. The Commuter Benefits Program Administrator's submissions to FIT shall not be considered confidential.

- C. Arbitration:** Any unforeseen disputes arising under this agreement which cannot be settled between the two parties will be submitted to the American Arbitration Association (AAA) for arbitration at a location in New York, New York in front of a single arbitrator appointed by the AAA. The two parties agree that arbitration by the AAA will be the final and binding resolution and the prevailing party shall be entitled to recover reasonable attorney fees in such suit or action, including any appeal.
- D. Entire Agreement:** This Agreement is the entire agreement of the parties. It shall supersede any prior understandings or agreements of the parties, whether oral or written. Amendments to this agreement may be proposed in writing by either party hereto and shall be deemed rejected - unless the party to whom any amendment is proposed accepts said amendment in writing within ten days after receipt of the proposed amendment. No oral agreement shall be effective to alter the terms of this Agreement.
- E. Effect of Waivers:** The waiver by one party of a breach of any provision of this agreement by the other party shall not operate or be construed as a waiver of any subsequent breach. No waiver shall be valid unless in writing and signed by an authorized representative of the party agreeing to the waiver.
- F. Governing Law:** All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to its conflict of laws provisions.
- G. Non-Assignability:** Neither party shall assign, transfer, or subcontract this Agreement or any of its rights or obligations hereunder without the express, prior written consent of the other Party.
- H. Severability:** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
- I. Execution:** This Agreement may be executed in multiple counterparts, any of which may be a facsimile or "pdf", each of which shall be deemed to be an original but all of which shall constitute one and the same instrument.

J. Data Security for Student Records (If Applicable):

- 1. Protection of Confidential Data:** Contractor agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in

The Family Educational Rights and Privacy Act (34 CFR § 99.33 (a)(2) and with the terms set forth below. 34 CFR 99.33 (a)(2) states that the officers, employees and agents of a party that receives education record information from the College may use the information, but only for the purposes for which the disclosure was made.

2. **Definition: Covered data and information (CDI)** includes paper and electronic student education record information supplied by the College, as well as any data provided by College's students to the Contractor, if any.
3. **Acknowledgment of Access to CDI:** Contractor acknowledges that the Contract allows the Contractor access to CDI.
4. **Prohibition on Unauthorized Use or Disclosure of CDI:** Contractor agrees to hold CDI in strict confidence. Contractor shall not use or disclose CDI received from or on behalf of the College (or its students) except as permitted or required by the Contract, as required by law, or as otherwise authorized in writing by the College. Contractor agrees not to use CDI for any purpose other than the purpose for which the disclosure was made.
5. **Return or Destruction of CDI:** Upon termination, cancellation, expiration or other conclusion of the Contract, Contractor shall return all CDI to the College, or if return is not feasible, destroy any and all CDI. If the Contractor destroys the information, the Contractor shall provide the College with a certificate confirming the date of destruction of the data.
6. **Remedies:** If the College reasonably determines in good faith that the Contractor has materially breached any of its obligations under this Contract, the College, in its sole discretion, shall have the right to require the Contractor to submit to a plan of monitoring and reporting; provide the College with a fifteen (15) day period to cure the breach; or terminate the Contract immediately if cure is not possible. Before exercising any of these options, the College shall provide written notice to the Contractor describing the violation and the action it intends to take. If the Family Policy Compliance Office of the U.S. Department of Education determines that the Contractor improperly disclosed personally identifiable information obtained from the College's education records, the College may not allow the Contractor access to education records for at least five years.
7. **Maintenance of the Security of Electronic Information:** Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted CDI received from, or on behalf of the College or its students.
8. **Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information:** Contractor shall, within one day of discovery, report to the College any use or disclosure of CDI not authorized by this Contract or in writing by the College. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure,

(ii) the CDI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the College.

9. **Indemnity:** Contractor shall defend and hold the College harmless from all claims, liabilities, damages, or judgments involving a third party, including the College's costs and attorney fees, which arise as a result of Contractor's failure to meet any of its obligations under this Contract.

TO BE SIGNED ONLY UPON AWARD OF CONTRACT

TITLE: RFP #C1697 – COMMUTER BENEFITS PROGRAM ADMINISTRATOR

In witness whereof, the parties have executed this Contract: The amount of this Contract is based on rates outlined in Exhibit B: Proposal Analysis Sheet (Attached).

FOR COMMUTER BENEFITS PROGRAM ADMINISTRATOR:

Signature

Print Name and Title

ACKNOWLEDGEMENT OF PERSON EXECUTING FOR COMMUTER BENEFITS PROGRAM ADMINISTRATOR

State of New York
County of _____) SS:

On this day of _____ 20__, before me personally came _____ to me known, who being by me duly sworn did depose and say that s/he resides at _____ ;

that s/he is the _____

of _____, the corporation described in and which executed the above instrument; and that s/he signed her/his name thereto by order of the Board of Directors of said corporation.

Notary Public

FASHION INSTITUTE OF TECHNOLOGY:

Sherry F. Brabham, Treasurer

Date